

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
v.)	Cr. No. 14-10257-MLW-2
)	App. No. 16-1039
BRUNO FERNANDES,)	
Defendant.)	

MEMORANDUM AND ORDER

WOLF, D.J.

February 11, 2016

On December 21, 2015, the court sentenced defendant Bruno Fernandes on one count of conspiracy to distribute marijuana and two counts of possession with intent to distribute marijuana. On December 28, 2015, Fernandes filed a Notice of Appeal. In his Notice of Appeal, Fernandes requested that the court appoint appellate counsel and grant leave for him to appeal in forma pauperis. For the reasons stated below, the court is denying both of these requests.

I. DISCUSSION

Fernandes requests that the court appoint counsel to represent him on appeal. See Docket No. 113. Pursuant to Rule 46.5(a) of the First Circuit Local Rules, any request for appointment of counsel on appeal must be directed to the Court of Appeals and not the District Court. The court is, therefore, denying Fernandes's request for appointment of appellate counsel.

Fernandes's Notice of Appeal also states that he "maintains his status with the Court as to his eligibility for [] court appointed counsel (IFP [In Forma Pauperis] Status)." Docket No.

113. Under Federal Rule of Appellate Procedure 24,

[A] party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal.

Fed. R. App. P. 24(a)(1). To the extent that Fernandes seeks leave to appeal in forma pauperis, his application is incomplete. Fernandes did not attach an affidavit, did not provide financial information, and did not state the issues he intends to present on appeal. Therefore, the court is denying leave to appeal in forma pauperis.

II. ORDER


In view of the forgoing, it is hereby ORDERED that:

1. Fernandes's Notice of Appeal and Request for Counsel (Docket No. 113) is DENIED to the extent that Fernandes seeks appointment of appellate counsel. Fernandes shall direct to the First Circuit any future requests for appointment of counsel to represent him in his appeal.

2. Fernandes's Notice of Appeal and Request for Counsel (Docket No. 113) is also DENIED to the extent that Fernandes seeks

to appeal in forma pauperis. If Fernandes still wishes to appeal in forma pauperis, he shall, by March 12, 2016, file a motion to appeal in forma pauperis with the United States Court of Appeals for the First Circuit. See Fed. R. App. P. 24(a)(5).¹

3. The Clerk shall transmit a copy of this Order to the First Circuit.


UNITED STATES DISTRICT JUDGE

¹ Federal Rule of Appellate Procedure 24(a)(5) provides: "A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1)."